

# **United States District Court**

for

*District of Guam*

## **Report for Modifying the Conditions or Term of Supervision with Consent of the Offender**

(Probation Form 49, Waiver of Hearings is Attached)

Name of Offender: **Joseph G. Tuncap**

Case Number: **CR 98-00307-001**

Name of Sentencing Judicial Officer: **John S. Unpingco**

Date of Original Sentence: **May 21, 1999**

Original Offense: **Bank Fraud, in violation of Title 18 United States Code, Sections 1344 and 2.**

Original Sentence: **125 months imprisonment followed by a 60 month term of supervised release with conditions to include: pay restitution in the amount of \$117,983.98; perform 400 hours of community service; participate in a drug treatment program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance abuse; obtain and maintain gainful employment; and pay a \$600 special assessment fee. On November 8, 2006, conditions were modified to include refrain from the unlawful use of a controlled substance and submit to one drug test within 15 days of release from imprisonment and at least two drug tests thereafter, not to exceed eight drug tests per month, as directed by the probation officer. On March 30, 2007, an Informational Violation Report was filed with the Court for noncompliant behavior. On August 24, 2007, an Informational Violation Report was filed with the Court for noncompliant behavior.**

---

Type of Supervision: **Supervised Release** Date Supervision Commenced: **October 27, 2006**

---

## **PETITIONING THE COURT**

To extend the term of supervision for \_\_\_\_\_ years, for a total term of \_\_\_\_\_ years.

To modify the conditions of supervision as follows

1. The defendant shall participate in the curfew component of the home confinement program for a period of one month, and abide by all the requirements of the program which will include electronic monitoring. The defendant is to pay all or part of the costs of the program based on his ability to pay as determined by the probation officer. The defendant is to be restricted to his residence every day from 10:00 p.m. to 6:00 a.m. or as directed by the officer.

CAUSE

On January 24, 2008, Joseph G. Tuncap failed to appear for a scheduled drug test. A compliance meeting was held on January 25, 2008, and Mr. Tuncap indicated he forgot to call the urinalysis telephone number to determine if he was scheduled to report for substance abuse testing. On January 25, 2008, Mr. Tuncap tested presumptive positive for the use of methamphetamine and admitted in writing to using "methamphetamine (ice)" on January 22, 2008.

Mr. Tuncap is participating in a substance abuse testing and treatment program. As a result of the admission, he was returned to phase one day one of the program. He paid the \$600 special assessment fee on March 14, 2007 and is employed.

Based on the information above and pursuant to 18 U.S.C. § 3583(e)(2), this Officer respectfully requests that the Court modify the conditions of supervised release and Mr. Tuncap be ordered to participate in the curfew component of the home confinement with electronic monitoring program for one month. Attached is Probation Form 49, Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision, with Mr. Ninete's consent to the modification.

Reviewed by:



/s/ CARMEN D. O'MALLAN  
U.S. Probation Officer Specialist  
Supervision Unit Leader

Date: March 5, 2008

Respectfully submitted,



/s/ GRACE D. FLORES  
U.S. Probation Officer

Date: March 5, 2008

THE COURT ORDERS

---

No Action  
 The Extension of Supervision as Noted Above.  
 The Modification of Conditions as Noted Above.  
 Other      Issuance of a:       Summons       Warrant

# *United States District Court*

for

*District of Guam*

## **Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

I agree to the modification of my supervised release conditions to include the following conditions:

1. The defendant shall participate in the curfew component of the home confinement program for a period of one month, and abide by all the requirements of the program which will include electronic monitoring. The defendant is to pay all or part of the costs of the program based on his ability to pay as determined by the probation officer. The defendant is to be restricted to his residence every day from 10:00 p.m. to 6:00 a.m. or as directed by the officer.

Witness:

*Grace D. Flores*  
Grace D. Flores

U.S. Probation Officer

Signed:

*Joseph G. Tuncap*  
Joseph G. Tuncap

Probationer or Supervised Releasee

*2/05/08 or*  
2/05/08 or  
Date